

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

OCT 21 2005

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CHRISTOPHER CLEMENTS,

Defendant - Appellant.

No. 04-10630

D.C. No. CR-02-00577-PMP/LRL

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Nevada
Philip M. Pro, District Judge, Presiding

Submitted October 18, 2005
San Francisco, California

Before: REINHARDT and THOMAS, Circuit Judges, and RESTANI^{**}, Chief
Judge, United States Court of International Trade.

Christopher Clements appeals the district court's decision denying his
motion to suppress. We affirm, and deny Clements' request for a limited remand
for resentencing.

^{*} This disposition is not appropriate for publication and may not be cited
to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

^{**} The Honorable Jane A. Restani, Chief Judge, United States Court of
International Trade, sitting by designation.

The officers had reasonable suspicion to search the residence of Clements, a probationer. In *United States v. Knights*, 534 U.S. 112, 121 (2001), the Court held that “no more than reasonable suspicion” is required to conduct such a search. Clements cites no authority, and the court knows of none, holding that in Nevada a warrant is *required* to search the residence of a probationer where reasonable suspicion exists. Further, Clements’ arrest did not terminate the officers’ right to conduct such a search. See *Latta v. Fitzharris*, 521 F.2d 246, 252 (9th Cir. 1975) (holding that a “parole officer’s interest in inspecting [the parolee’s] place of residence did not terminate upon his arrest; if anything, it intensified”).

There was no dispute of fact as to whether reasonable suspicion existed. Thus, the district court did not abuse its discretion when it denied Clements’ request for an evidentiary hearing on his motion to suppress. See *United States v. Howell*, 231 F.3d 615, 620 (9th Cir. 2000), *cert. denied*, 534 U.S. 831 (2001).

Finally, in his plea agreement Clement waived the right to appeal his sentence. Therefore, he is not entitled to a limited remand for resentencing under *United States v. Ameline*, 409 F.3d 1073 (9th Cir. 2005) (en banc). See *United States v. Cortez-Arias*, No. 04-10184 (September 30, 2005) (holding that a waiver of the right to appeal bars an *Ameline* remand).

Accordingly, the judgment of the district court is **AFFIRMED**.